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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/396,054	09/15/1999	YOSHIHITO ISHIBASHI	450100-02090	6914

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NEW YORK, NY 10151

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/396,054

Applicant(s)

ISHIBASHI, YOSHIHITO

Examiner

Neveen Abel-Jalil

Art Unit

2165

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-41.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): _____.
13. ☐ Other: _____.


JEFFREY CATON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's argument with respect to rejections under 35 USC 101, and claim objections is found to be persuasive. Thus the claim objections and 101 rejections are hereby withdrawn.

Applicant's arguments with respect to prior art filed on August 4, 2006 have been fully considered but they are not persuasive.

In response to Applicant's argument regarding the 112, second paragraph rejections made in claims 8, 10, 13, 18, 24-30, 34-37, and 39-41, that "the predetermined procedure is an adjective noun combination that is clear and not indefinite" is acknowledged but not deemed to be persuasive.

The Examiner is aware of the adjective and noun intentions made in the claims. But points to the language of claim 8, as an example, wherein the claim recites "while performing an accounting following a predetermined procedure" which is still vague and confusing. The recitation of "while" indicates something happening "during" another event. While, "following" indicates something happens "after" event. The question remains, how can one event takes place both "while" and after all at the same time? Is the procedure identified prior to the performing? or during ? Or is the performing taking place following a predetermined procedure and then the accounting is taking place? Furthermore, the sentence doesn't appear to be complete in order to make grammatical sense, "performing an accounting" of what? Similarly, the remaining claims fall under the same deficiency. Correction is required.

In response to Applicant's argument that "the office action did not clearly explain the pertinence of Akiyama et al. to the claim limitation" is acknowledged but not deemed to be persuasive.

The Examiner did provide specific citation (column, line No.) to each and every claimed limitation where it is believed to correspond to the reference cited. Applicant is also reminded that the reference as whole needs to be taken into consideration.

In response to Applicant's argument that "Akiyama et al. does not teach a content key encrypted with a first storage key nor content key used to encrypt content data" is acknowledged but not deemed to be persuasive.

The Examiner submits that Akiyama teaches encrypting content with a content key, and later encrypting the content key with yet another key, specifically, in column 7, lines 1-11, where he recites: The first data file 12 is a database stored with a multiplicity of encrypted contents and IDs (title IDs) thereof. The second data file 13 is a database stored with a multiplicity of re-encrypted contents which had been stored in the first data file 12 and re-encrypted by use of a different key and with title IDs thereof. Akiyama continues to teach the argued limitation in column 14, lines 7-12, by stating distributes a key (KG.sub.j) for decrypting the encrypted content which is referred to as a title key. The title key is distributed via the S2 interface to smoothly decrypt the data of a variety of content on the side of the service client 6.

"content data and content key" have been given their broadest reasonable interpretation since Applicant's specification does not define them differently. "Content data" is any kind of data stored and transmitted over the network. The type of data is irrelevant since its constitute non-functional descriptive material and not given patentability as such.

Applicant's argument with regards to the Final Office action presented new arguments is acknowledged since the Applicant's own amendment to the claim necessitated the new grounds of rejections including the newly cited art of Akiyama and the Final is thus proper.